IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL REVISION APPLICATION NO.343 OF 2004

Nihal Ahmed Mohammed
Yusuf Ansari, .. Applicant

Vs

The State of Maharashtra, .. Respondent

Mr V.B.Sinha, for the applicant.

Mr R.Y.Mirza, APP for the respondent.

CORAM : D.B.BHOSALE,J.

DATE : 3rd September, 2004.

ORAL ORDER:

1. Heard Mr.Sinha, learned counsel for the petitioner and Mr.Mirza, learned A.P.P for the respondent.

2. Rule. Rule made returnable forthwith. Mr Mirza, learned APP, waives service for the respondent. By consent, Rule is heard finally.

3. This revision is directed against the judgment and order of conviction passed by the Courts below under section 332 of IPC. The petitioner was sentenced to suffer simple imprisonment for 15 days and to pay fine of Rs.1000/-. Mr Sinha, learned counsel for the petitioner, at the outset, submits that he is not pressing this revision application on merits and prayed for commuting the sentence from 15 days to undergone. The petitioner has made a statement in the revision that

he has undergone six days pre-trial detention and already paid the fine. While awarding the sentence, the petitioner was given set off under section 428 of Cr.P.C. The occurrence in the instant case took place on 24.2.1993 in which there was a scuffle between the petitioner and the traffic constable.

4. I have perused the orders of the Courts below. Mr Mirza, learned APP, did not seriously oppose the contentions urged by Mr Sinha, learned counsel for the petitioner.

5. It is clear from the facts of the case that the petitioner has suffered agony of pendency of these proceedings since 1993 and undergone six days pre-trial detention. Keeping that in view and considering the nature of allegations against the petitioner and that he is not a habitual offender, I am inclined to commute the sentence from 15 days to undergone. Hence, I am passing the following order.

(a) The revision is partly allowed. The conviction under section 332 of IPC is maintained. In so far as sentence of simple imprisonment of 15 days is concerned, that is reduced to undergone. The petitioner be set at liberty, if not required in any other case.

(D.B.BHOSALE, J.)